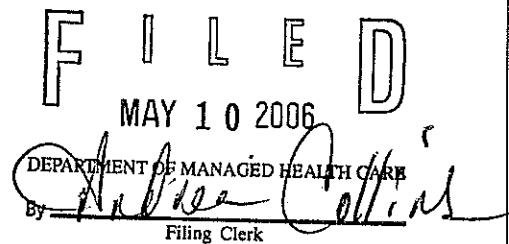


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8
9 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
10 OF THE STATE OF CALIFORNIA

11 IN THE MATTER OF:) Enforcement Matter No.: 06-162
12 Kaiser Foundation Health Plan, Inc.,) OAH No.:
13 Respondent.) **STIPULATED AGREEMENT**

14
15 This Stipulated Agreement is made and entered into between Kaiser Foundation Health
16 Plan, Inc. (Northern California Region), a California non-profit benefit Corporation (hereafter
17 Kaiser), and the Department of Managed Health Care (hereafter the Department) with regard to
18 kidney transplant services furnished at Kaiser's Foundation Hospitals' San Francisco Medical
19 Center (KFH-SF). Kaiser is a health care service plan licensed under the Knox-Keene Act,
20 license number 933 0055, and regulated by the Department.

21 Upon receiving a complaint, the Department initiated an immediate investigation in
22 March 2006 concerning the operation of Kaiser's kidney transplant services, its medical and
23 administrative capacity, and the availability and accessibility of care in Northern California. On
24 March 27, 2006 the Department requested information from Kaiser by letter from Thomas L.
25 Gilevich; Kaiser has responded, in part, and will provide further responses within the next two
26 weeks regarding grievances or disputes over the arrangement and provision of transplantation
27 services and requests for referral to out of plan or contracted transplant specialists or centers.
28

1 The parties met to discuss these matters on May 9, 2006 at the Department. Kaiser
2 attended through Mary Ann Thode - President, Northern California Region; Philip Madvig, MD
3 - Associate Executive Director, The Permanente Medical Group; Sharon Levine, MD - Associate
4 Executive Director, The Permanente Medical Group; Wayne Morris - Vice President and
5 Regional Counsel, Northern California Region, Kaiser Foundation Health Plan, Inc.; Debby
6 Cunningham - Vice President, Strategy and Integration, KFHP; John Yamamoto - Vice President
7 and Assistant General Counsel, Legal and Government Relations Department, KFHP; Lisa
8 Koltun - Vice President, Health Plan Regulatory Services, KFHP; Jerry Fleming - Senior Vice-
9 President and National Health Plan Manager, KFHP; and Deborah Espinal - Managing Director,
10 Health Plan Policy, Health Plan Regulatory Services, KFHP. Attendees from the Department
11 were Lucinda Ehnes, Director, Plan and Provider Relations; Amy Dobberteen, Assistant Deputy
12 Director, Enforcement; Patricia Sturdevant, Senior Counsel, Enforcement; Bobbie Reagan,
13 Assistant Deputy Director, Help Center; Robin Fried, Assistant Chief Counsel, Help Center;
14 Marcy Gallagher, Chief, Division of Plan Surveys; Tom Gilevich, Senior Counsel, Help Center;
15 and Lynne Randolph, Deputy Director for Communications and Planning.

16 As a result of those discussions, Kaiser and the Department of Managed Health Care do
17 hereby stipulate and agree that:

18 1. For enrollees who are on the UCSF or UCD wait lists when an organ becomes
19 available, Kaiser has authorized UCSF and UCD to proceed with transplantation, and eliminate
20 the need for any further request for authorization;

21 2. Kaiser shall demonstrate that it has sufficient clinical and administrative capacity
22 to arrange or furnish transplant services with reasonable accessibility and to provide continuity
23 of care. If capacity issues arise in the future and the center cannot provide transplantation
24 services, Kaiser will provide access and referral to other non-Kaiser facilities;

25 3. Kaiser will formulate and submit to the Department, a corrective action plan to:

26 a. provide information by May 16, 2006 about the number of enrollees on
27 kidney transplant wait lists at KFHP-SF, UCSF, and UCD as of May 1,
28 2006 (or another agreed upon date), wait times data, and outcomes data;

- 1 b. ensure proper medical records and information are accessible and
2 available for all enrollees;
3 c. will work with United Network for Organ Sharing (UNOS), UCSF, UCD,
4 and its enrollees to ensure that enrollees have appropriate placement on
5 the waiting list and are credited with their accrued waiting time.

6 4. Kaiser is commissioning an external, independent review of the program;
7 agreeing to have at least three reviewers as follows: Dr. Joseph Bisordi, Dr. Connie Davis, and
8 Helen Thomson, R.N. Additionally, the Department will provide one reviewer from the
9 Department's HMO Help Center to participate as part of the panel. This panel is expected to
10 recommend best practices and possible improvements to the KFH-SF kidney transplant program,
11 upon which Kaiser will take appropriate action subject to the approval of the Department.

12 5. Kaiser will make no standardized written communications with enrollees on the
13 kidney transplant wait list about the process or terms for transfers, to or from UCSF or UCD, for
14 the next six months, without prior approval from the Department.

15 6. Kaiser will establish guidelines and timetables for timely and promptly
16 responding to enrollee requests for information, and will submit them to the Department for
17 approval by May 31, 2006.

18 7. Kaiser has already commenced contacting enrollees, and will ensure that every
19 wait-listed enrollee is contacted to ensure they are satisfied with their planned course of
20 treatment. Any transfer resulting from such communications with the treating nephrologist or
21 the transplant program will be coordinated expeditiously with the treating facility. All clinical
22 details relating to any transfer will be coordinated as expeditiously as possible.

23 8. Kaiser will file a material modification with DMHC including the following
24 exhibits on or before June 15, 2006:

- 25 • Exhibit E – A narrative describing the program and the basis for wanting to
26 provide services through a new transplant facility, including:
27 • A description of the start up requirements for the new transplant facility,
28 including staffing requirements

- A description of where patients were and are currently receiving treatment
- The effect transferring members to the new facility has or would have had on their place on the transplant list
- The continuity of care transition plan
- The implementation date, including the date by which Kaiser intended to transfer patients to the Kaiser facility transplant list
- Process for ensuring all patients would be appropriately transferred to the Kaiser facility transplant list
- Whether Kaiser has terminated or is terminating any facility contracts
- Copies of notices Kaiser intended to provide to affected members
- Discussion of the financial impact on Kaiser
- Discussion of the quality of care impact on Kaiser members
- Information regarding other agencies or organizations Kaiser notified, or from which Kaiser obtained approval and the status of such approvals
- Exhibit H – Geographic Area
 - Maps showing the affected geographic area
 - Average distance patients traveled in each affected county to the non-contracting facilities
 - Distance from the non-contracting facilities to the new Kaiser facility
 - Travel times during peak and non-peak times from the non-contracting facilities to the new Kaiser facility
- Exhibit I-1 – Professional Staff
 - Discussion of professional staff required to staff the new facility, including whether Kaiser intended to hire new staff, or transfer staff from other Kaiser facilities
 - If transferring staff from other facilities, a discussion of the impact this would have on accessibility at the other facilities
- Exhibit I-2 - Hospitals

- Discussion of new transplant facility, including whether Kaiser intended to use an existing hospital or build a new hospital
- Number of beds in new facility
- Emergency capabilities
- Services available to members at the facility.
- Relationship of facility to Kaiser (owned, contracted, joint venture, etc.)
- Exhibit I-3 – Ancillary Services
 - Discussion of ancillary services provided at the new facility
- Exhibit I-4 – Staffing Ratios
 - Provider-to-enrollee ratios of providers at the facility to the number of enrollees projected to receive services at the facility
- Exhibit I-5 – Access requirements
 - Average projected waiting time to receive a transplant compared to averages at non-contracting centers and state/national averages
 - Monitoring plan to ensure accessibility
- Exhibit I-6 Continuity of Care policy
 - Discussion of compliance with Section 1373.96
 - Transition plan to ensure information from other facilities appropriately transferred and members maintain place on waiting list
- Exhibit Q/S/T/U – Disclosure Documents
 - Any changes to disclosure documents describing transplant benefits affected by new facility

9. This Stipulated Agreement of the Parties is not confidential and may be shared with other government regulatory agencies.

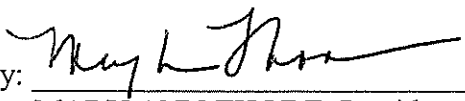
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2 10. Nothing in this Stipulated Agreement of the Parties prohibits, prevents, or limits
3 the Department of Managed Health Care from exercising its regulatory authority and jurisdiction
4 over Kaiser with regard to its transplantation center.

5 Dated: May 10, 2006

6 Department of Managed Health Care

7
8 By: 
9 LUCINDA A. EHNES
Director

10
11 Kaiser Foundation Health Plan, Inc.

12
13
14 By: 
15 MARY ANN THODE, President
16 Northern California Region
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